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HOUSTON CHRONICLE ARCHIVES

Paper: Houston Chronicle**Date:** THU 04/15/2004**Section:** ThisWeek**Page:** 8**Edition:** 2 STAR**West U. seeks liability rule on railroad `quiet zones'**

By HEATHER SAUCIER, Houston Chronicle correspondent

Taking another step to quiet noise from trains darting through West University Place, the city is sending a letter to the U.S. Department of Transportation supporting a regulation to not hold cities liable for accidents at railroad crossings in designated ``quiet zones."

City Council approved Monday the submission of a letter that supports a similar position taken by the city of Arlington, which has urged the Federal Railroad Administration to make clear that cities would not assume liability for designating quiet zones. It would also prevent railroads from requiring indemnification as a condition of establishing quiet zones.

The city has until Monday to go on record and state its position during an Interim Final Rule process issued by the FRA for the use of locomotive horns at highway-rail crossings. The rule requires that locomotive horns be sounded as a warning to highway users at public highway-rail crossings.

It will not take effect until one year following the date of its publication, which was Dec. 18, 2003.

Until that date, sounding horns at crossings is subject to local and state laws.

The rule also provides an opportunity, not available until now, for cities to mitigate train noise by establishing ``quiet zones."

The FRA has invited comments on its proposed ``quiet zone" regulations.

While Mayor Burt Ballanfant supports the regulation, he said stronger language must be used to ensure that cities are not held responsible for accidents that occur at crossings in established quiet zones.

Rather than give railroads indemnity, claims should be preempted, he suggested.

``Preemption is the most certain remedy against someone who gets injured," he said. ``If these regulations go forward and are modified, I think cities throughout the country would look to begin implementing them."

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